

COMMISSIONERS APPROVAL

LUND *Btl*

THOMPSON *AT*

CHILCOTT *gc*

TAYLOR (Clerk & Recorder)

Date.....January 5, 2006

Members ..... Commissioner Greg Chilcott  
Commissioner Alan Thompson, and Commissioner Betty Lund

Minutes: Sally Fortino

The Board met for a Request for Commissioner Action on the Grand Vista Estates Subdivision. Present at this meeting was Planner Renee Van Hoven and the Applicant's Consultant, Terry Nelson of Applebury Survey.

Commissioner Lund read the following statement:

Today's agenda includes one or more land use issues. Because of my years of service as Ravalli County Clerk & Recorder and now as Commissioner and because members of my family are involved in the real estate profession, I am providing this statement in the interest of full and open disclosure. My husband, son and brother-in-law are realtors who conduct business in this county. I do not participate in their real estate business or related matters except as the passive title owner of the building rented by their real estate business. Although connections with my family or their business and the land use issues facing us today are possible, I am not aware of any direct connections and thus do not believe I have any conflicts of interest arising out of my participation in today's meeting.

The Commissioners met to review the Grand Vista Estates Subdivision.

Renee presented a power point presentation and entered the Request for Commission Action into the public record as follows:



**REQUEST FOR COMMISSION**

**ACTION**

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Site Visit: January 3, 2006 at 3:30 p.m.  
Meeting: January 5, 2006 at 9:00 a.m.  
Request: To approve the Grand Vista Estates Minor Subdivision and Two Variance Requests.

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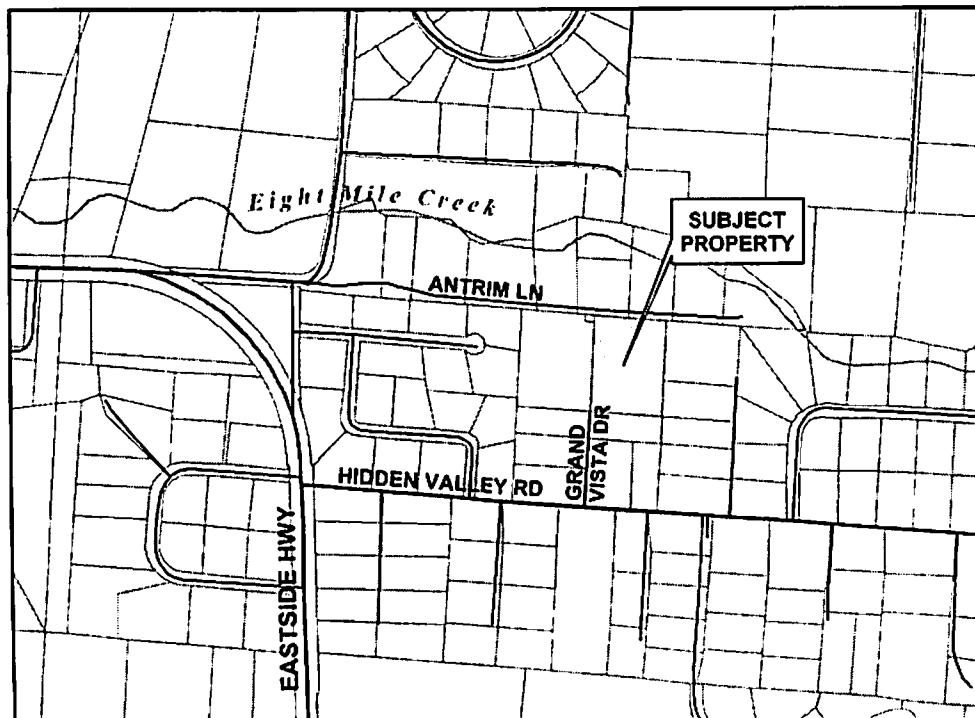
## I. ACTION REQUESTED

This is a request from the applicant, L & E Builders LLC, represented by Terry Nelson, Applebury Survey, to approve the **Grand Vista Estates Minor Subdivision and Two Variance Requests**.

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## II. BACKGROUND

Grand Vista Estates is a three-lot minor subdivision located east of Florence off Grand Vista Drive (See Map 1). There is an existing home on proposed Lot 2 and all lots are proposed for single-family residences. There is a high-pressure gas line traversing the property. The developer is proposing to construct Grand Vista Drive to meet County Standards.



**Map 1: Location Map**  
(Source Data: Ravalli County Planning Department)

In conjunction with the subdivision proposal, the applicant is requesting the following two variances:

1. For relief from Section 5-2-2(13) of the Ravalli County Subdivision Regulations, to allow for a no-build zone of 50 feet centered on the high-pressure gas line.
2. For relief from Sections 5-4-5(a) and (e) of the Ravalli County Subdivision Regulations, which require that Antrim Lane is improved to meet County road standards.

*Staff recommended conditional approval of the subdivision and variance requests.*

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### III. PLANNING BOARD RECOMMENDATIONS

The Ravalli County Planning Board held a public hearing on December 7, 2005 and took the following actions:

The Board made a motion to recommend **approval** of Variance Request #1 and Variance Request #2, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report. **The Board voted 6-0 to approve this motion.**

The Board made a motion to recommend **approval** of the Grand Vista Estates Minor Subdivision, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report, amending the following conditions:

- Condition 5 - in addition to the requirement that a no ingress/egress zone be placed along the Antrim Lane frontage of the subdivision on the final plat, a statement shall also be placed on the final plat that the no ingress/egress zone be lifted when Antrim Lane is improved to meet the County Standards in place at the time the road is improved.
- Condition 7 – amended to state that an encumbrance shall be on the final plat that a \$250 per lot contribution be made to the Florence-Carlton School District for Lots 1 and 3 upon first conveyance of each lot.
- Condition 8 – amended to state that an encumbrance shall be on the final plat that a \$500 per lot contribution be made to the Florence Rural Fire District for Lots 1 and 3 upon first conveyance of each lot.

**The Board voted 6-0 to approve this motion.**

*Comments from the meeting are contained in the record.*

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### IV. PLANNING BOARD'S RECOMMENDED MOTIONS

(Note: Changes to staff's recommended motions are in underline/~~strikeout~~.)

1. That the variance request from Section 5-2-2(13) of the Ravalli County Subdivision Regulations to allow for a no-build zone of 50 feet centered on

the high pressure gas line, be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

2. That the variance request from Sections 5-4-5(a) and (e) of the Ravalli County Subdivision Regulations for relief from the requirement that the developer improve Antrim Lane to meet the County's road standards, be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.
3. That the Grand Vista Estates Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report, amending Conditions 5, 7, and 8 as stated herein.

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#### V. PLANNING BOARD'S RECOMMENDED CONDITIONS

(Note: Changes to staff's recommended motions are in underline/strikeout.)

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

**Notification of Road Maintenance:** Ravalli County, the State of Montana, or any other governmental entity does not maintain Grand Vista Drive or Antrim Lane and therefore does not assume any liability for improper maintenance or the lack thereof. A Road Maintenance Agreement for Grand Vista Drive and Antrim Lane was filed with this subdivision and outlines what parties are responsible for maintenance and under what conditions. (*Effects on Local Services*)

**Limitation of Access onto Antrim Lane:** A "no ingress/egress" restriction is located along the Antrim Lane frontage of the subdivision, which precludes vehicular access onto this privately-maintained road. This limitation of access may be lifted or amended with approval of the County. (*Variance #2*)

**Notification of Proximity to Natural Gas Supply Line, Easement, No-Build Zone, and Facility:** An 8" diameter natural gas main supply line is buried within a 50-foot wide easement and traverses Lots 1, 2, and 3, as shown on the filed subdivision plat. The final subdivision plat identifies a 50-foot wide no-build zone, which applies to residential, commercial and/or industrial structures, centered on the gas line. Northwestern Energy has the authority and jurisdiction to install, operate and maintain the existing natural gas pipeline traversing this subdivision in accordance with the Department of Transportation's Code of Federal Regulations and the standards within the Gas Transmission Right-of-Way Development Provisions. There is also a gas line facility located northwest of the property. For further information

regarding the gas line and facility, please contact the Northwestern Energy Company, 1140 South First Street, Hamilton, Montana, 59840, (406) 542-5970. (*Effects on Public Health and Safety and Variance*)

**Notification of Severe Soils:** Within this subdivision there are areas of the property identified as potentially having soils rated as severe for roads. The approximate locations of these areas can be found on a reduced copy of the final plat and descriptions of the severe soils in question which are included as exhibits to this document. (The applicants shall include the exhibits as attachments) (*Effects on Public Health and Safety*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

**Living with Wildlife:** (See letter from FWP in application packet for the required provisions) (*Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health and Safety*)

**Waiver of Protest to Creation of RSID/SID:** Owners and their successors in interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community waste water treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. (*Effects on Local Services*)

**Required Posting of County-Issued Addresses for Lots within this Subdivision:** The Florence Rural Fire District has adopted the Uniform Fire Code 901.4.4, which requires the lot owners to post County-issued addresses at the intersection of the driveway leading to the primary residence and the road providing access to the lot as soon as construction on the residence begins. (*Effects on Local Services & Effects on Public Health and Safety*)

**Access Requirements for Lots within this Subdivision:** The Florence Rural Fire District has adopted the Uniform Fire Code. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 20', a vertical clearance of 13'6" and an all weather surface that can accommodate the weight of a fire truck, approximately 40,000 lbs. to meet requirements of the Uniform Fire Code. Please contact the Florence Rural Fire District for further information on the requirements of the Florence Rural Fire District and/or the Uniform Fire Code. (*Effects on Local Services & Effects on Public Health and Safety*)

**Primary Heat Source:** The primary heat source for the newly constructed residences in this subdivision shall be at least 75% efficient. (*Effects on Natural Environment*)

**Control of Noxious Weeds:** Lot owners shall control the growth of noxious weeds on their respective lot(s). *(Effects on Natural Environment)*

**Lighting for New Construction:** Full cut-off lighting shall be required for any new construction within this subdivision. A full cut-off fixture means fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light emitted. The source of light is fully shielded, top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. Spotlighting of flagpoles shall be permitted. *(Effects on Public Health & Safety)*

**Radon Exposure:** The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. *(Effects on Public Health and Safety)*

**Amendment:** The covenants filed with the final plat shall state that written Governing Body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with the subdivision plat that states the following: Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners and any successors in interest to any future RSID/SID, based on benefit, for a community wastewater system, community water system, or upgrading roads leading to or within the subdivision, including but not limited to paving, curbs and gutters, non-motorized transportation facilities, street widening, and drainage facilities. *(Effects on Local Services)*
4. The Road Maintenance Agreement for Grand Vista Drive filed with the final plat shall include both Grand Vista Estates and Lot 2A of COS 2295 as properties subject to the agreement. *(Effects on Local Services)*
5. The final plat shall show a no ingress/egress zone along the Antrim Lane frontage of the subdivision. A statement shall be placed on the final plat that the no ingress/egress zone be lifted when Antrim Lane is improved to meet the County Standards in place at the time the road is improved. *(Effects on Local Services and Variance #2)*
6. The applicant shall install a stop sign at the intersection of Grand Vista Drive and Hidden Valley Road prior to final plat approval. *(Effects on Local Services and Public Health and Safety)*
7. ~~The applicant shall submit a letter or receipt from the Florence-Carlton School District stating that they have received a (amount to be determined by the Planning~~

~~Board) per lot contribution prior to final plat approval.~~ An encumbrance shall be on the final plat that a \$250 per lot contribution be made to the Florence-Carlton School District for Lots 1 and 3 upon first conveyance, including lease or rent, of each lot.  
(Effects on Local Services)

8. The applicants shall meet the water supply requirements for the Florence Rural Fire District, which is a 1,000-gallon per minute water supply or a 2,500 gallon per lot water storage. ~~Alternatively, the applicants can contribute \$500 per lot and provide a letter or receipt from the Florence Rural Fire District that the contribution has been made prior to final plat approval~~ an encumbrance shall be on the final plat that a \$500 per lot contribution be made to the Florence Rural Fire District for Lots 1 and 3 upon first conveyance, including lease or rent, of each lot. (Effects on Local Services & Public Health and Safety)
9. The 50-foot no-build zone, which applies to residential dwellings, commercial, and industrial structures, centered on the high pressure gas line owned by Northwestern Energy shall be shown on the final plat, as shown on the preliminary plat. (Effects on Public Health and Safety and Variance #1)
10. The subdividers shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Effects on Public Health and Safety)
11. The applicant shall provide for a 15-foot wide public road and utility easement along the Antrim Lane frontage of Lot 3 on the final plat. (Effects on Local Services and Variance #2)

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<b>REMAINING ISSUES:</b>	None known.
<b>FISCAL IMPACT:</b>	No extraordinary fiscal impacts noted.
<b>ATTACHMENTS:</b>	Application package Staff Report Planning Board Meeting Minutes and Attachments
<b>STAFF:</b>	Renee Van Hoven
<b>DATE:</b>	December 30, 2005

The floor was opened for public comment.

Terry agreed with the recommendations of staff. There was no additional public comment.

Board deliberation then took place.

Commissioner Thompson stated the developer has addressed the conditions requiring variances.

Commissioner Lund stated a Montana power station is against the edge of the road and there is no way to widen the road because of the power station. The County will receive an additional 15 feet of width, but the road cannot come up to County specifications

because of the power station. She asked if it was legal to include another parcel of land from another person. Terry said it was.

Commissioner Lund referred to #5, asking that the sentence regarding ingress/egress be addressed. Terry explained it established permanent ingress/egress.

Commissioner Lund referred to the statements in regard to the lease or rent issue and how that would relate to the contributions for school and fire districts. She stated her concern is if this were to be done on first conveyance of a lot, it is easy to track, but tracking rent would be much more difficult.

Commissioner Chilcott stated the law is written that they (the developer) have ownership with the lease.

Renee said it is for first conveyance.

Terry suggested tying this to a sewer permit.

Commissioner Lund stated her concern is with 'double extraction'.

Commissioner Chilcott commented he understood her concern for the enforcement issue, but not for double exaction. He added it means the sub-divider doesn't have to come up with the money up front, but rather upon final plat approval. He noted the location of the gas main is unfortunate, since it prevents extending Grand Vista all the way through. Renee stated James recommends that all easements be labeled as 60 foot-wide public roads and utility easements.

Commissioner Lund made a motion that the variance request #1 from Section 5-2-2(13) of the Ravalli County Subdivision Regulations to allow for a no-build zone of 50 feet centered on the high pressure gas line be approved, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report. Further, that variance request #2 from Sections 5-4-5(a) and (e) of the Ravalli County Subdivision Regulations for relief from the requirement that the developer improve Antrim Lane to meet the County's road standards be approved, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report. And the Grand Vista Estates Minor Subdivision be approved, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the report, with the amendments made by the Planning Board to Conditions 5, 7, and 8, and the additional condition that Grand Vista Drive be labeled as a 60-foot wide public road and utility easement.

Commissioner Thompson stated an addition to the motion should be made regarding the finding on the subdivision that public health and safety is available. Commissioner Lund moved to add that finding to the original motion. Commissioner Thompson seconded the motion.



Renee suggested the Commissioners do not reference the sheriff's letter.

Commissioner Lund added that to the motion.

There was no further discussion. The motion went to vote; all voted 'aye'.

In other business, the Commissioners were asked to enter into discussion of amendments to subdivision approvals. However, insufficient time was given for public notice. Therefore, the discussion was tabled until January 9, at 11 a.m.

The Commissioners paid an afternoon site visit to Sleeping Child Road.

Commissioner Chilcott attended a RML/CLG meeting in the evening.